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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,768	05/14/2001	Toshiyuki Namba	F-6976	8918

7590

10/23/2002

Jordan and Hamburg  
122 East 42nd Street  
New York, NY 10168

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

**Application No.**

09/854,768

**Applicant(s)**

NAMBA ET AL.

**Examiner**

Stephen J. Castellano

**Art Unit**

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 14-22 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards ('305).

Edwards discloses in Fig. 9 and 10, a molded plastic cup providing a heat-insulating food container comprising rows of fins (40d') arranged in a zig-zag fashion such that the fin alternates from extending upwardly in a linear fashion at approximately a 45 degree angle to horizontal to extending downwardly in a linear fashion at approximately a 45 degree angle to horizontal as one progresses about the circumference of the cup, all of the upwardly extending portions are parallel to each other and extend vertically to form vertical ribs spaced apart from one another and continuously extend along an exterior surface of the circumferential wall insofar as these ribs are spaced apart in the circumferential direction but extend in a continuous fashion exactly like the present invention. The  $t$  less than or equal to  $T$  and  $T$  less than or equal to  $4t$  relationship is shown.

Claims 9, 11, 14-22 and 24-27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schwartz ('689).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 12-22 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards or Schwartz.

If applicant believes that the  $t$  less than or equal to  $T$  and  $T$  less than or equal to  $4t$  relationship is not shown then it would have been obvious by design choice.

For claim 10, Edwards discloses the invention except for the polypropylene material, the melt index of 50-100 and the wall thickness of 0.2 – 0.6 mm. Polypropylene is a well known container and cup material. The melt index of 50-100 would be inherent with polypropylene material. It would have been obvious to provide a polypropylene material in order to provide the cup from a plastic which is readily deformable yet can be cured to set into a permanent form through heating to a melted state, shaping, and finally cooling into a solid form in a different shape. It would have been obvious by design choice to choose a wall thickness between 0.2 – 0.6 mm to optimize and balance the characteristics of a wall thick enough to retain liquid without leaking, thin enough to reduce the weight and cost of the cup and a wall which is pliable enough when heated to be formed into and be shaped as desired.

For claims 12 and 13, Edwards discloses the invention except for the triangular and trapezoidal cross sections of the ribs. The triangular and trapezoidal cross sectional shapes of reinforcing ribs are well known. It would have been obvious to modify the cross sectional shape of the ribs to be either triangular or trapezoidal as a matter of design choice to balance the characteristics of strength and flexibility.

Claims 9-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaplin in view of Edwards.

Chaplin discloses a heat-insulating food container comprising vertical ribs extending in a straight line, circumferential ledges between wall parts wall and downwardly facing subsidiary ribs formed at the ledges, the diameter of the wall decreases in a direction from the upper end to the bottom. Chaplin discloses the invention except for the double layered reinforcing. Edwards teaches double layered reinforcing in the formation of flange or fin (40, 40c, 40d). It would have been obvious to add another layer to provide a double layer reinforcing in order to make the subsidiary ribs stronger.

Applicant's arguments with respect to claims 9-27 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc  
October 17, 2002